

CITY OF ALAMO HEIGHTS
CITY COUNCIL
August 23, 2010

A regular meeting of the City Council of the City of Alamo Heights, Texas was held at the Council Chambers, 6120 Broadway, at 5:30 p.m. on Monday, August 23, 2010.

Present and composing a quorum were:

Mayor Louis Cooper
Mayor Pro-Tempore Stan McCormick
Councilmember Bobby Rosenthal
Councilmember Fred Prassel
Councilmember Elliot Weser
Councilmember John Savage

Also attending were:

City Manager Ann Benson McGlone
City Attorney Mike Brenan
Assistant City Manager/Public Works Director Shawn P. Eddy
Communications/IT Manager Marian Ramirez
Finance Director Cynthia Barr
Community Development Director Brian Chandler
Human Resource Manager Judith E. Surratt
City Secretary Jennifer Reyna
Interim Fire Chief Buddy Kuhn
Police Chief Rick Pruitt

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Mayor Louis Cooper called the meeting to order at 5:34 p.m.

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Mayor Cooper asked City Council for any corrections to the minutes of the August 9, 2010, City Council Meeting. A motion was made by Councilmember Elliot Weser to approve the minutes of August 9, 2010 as amended. The motion was seconded by Councilmember Fred Prassel and passed by unanimous vote.

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Item # 2 City Manager's Report

a. Update on the EMS Subscription Service

City Manager Ann McGlone announced the EMS subscription service was an item currently listed in the Strategic Action Plan and stated other cities that provide an EMS subscription service have not observed a favorable response among the community. The

Accountability and Management Committee recommended not pursuing this type of service.

b. Action Item Referrals

Ms. McGlone introduced a new process of informing Council on the status of items that will be presented in the future for Council consideration. Items will be briefly addressed to Council in the City Manager's Report and Council will have the opportunity to discuss and/or provide direction if the item goes to a Council Committee for further discussion.

She stated tonight's meeting will be the first Referral Item report she will provide to Council, which is addressed next.

c. Referral Items for Council

1. Amendment to Chapter 4 - Animals

Ms. McGlone informed Council that an amendment to Chapter 4 is needed to improve poor language related to animal registration, stray animals, and wild animals. She recommended that this item be presented to Council at a future Council meeting. Council agreed.

2. Storm Water Drainage Proposal and Flood Plain Map

Ms. McGlone informed Council that Bexar County and the San Antonio River Authority (SARA) will be making a presentation of a preliminary design of proposed stormwater improvements. The property owners that attended the "Lunch with the Mayor" and the business community will be notified via postcards to attend the presentation which is tentatively scheduled on September 13, 2010.

3. Investment Policy

Ms. McGlone stated the municipality's investment policy must be approved on an annual basis and recommended this item be presented at the next Council meeting. Council agreed.

4. Torcido Alley

Ms. McGlone informed City Council of a property owner's request for an alley closure on Torcido Drive and Morton Street. Ms. McGlone suggested this item be considered by the Infrastructure and Services Committee. Mayor Cooper stated that due to details, this item should be considered by the Infrastructure and Service Committee and the committee should provide a report to Council on its recommendation. He also requested that the Committee consider how this issue should be addressed in other areas of the City. Council agreed.

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Mayor Pro Tem Stan McCormick expressed concern about the number of items included on the consent agenda. He was concerned that citizens might be interested in some of the items and requested that more items be considered individually.

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Citizens To Be Heard Concerning Non-Agenda Items

Margaret Houston, 140 Patterson Avenue, expressed concern about the short time for Council consideration of the proposed charter amendment and the expectancy of a quick turnaround for requested ordinances to be processed. She urged the newly elected officials to observe and learn from colleagues, staff and protocols to represent all the residents of the city and not just a few.

Pal Wenger, 609 Alta Avenue, expressed concern on the proposed budget and financials. He referenced the online 2009 Comprehensive Annual Financial Report (CAFR) and observed the auditor's report does not display a name or a signature of a firm. He referred to the recent publicity of the city officials of Bell, California being overpaid and requested the top six staff members' salaries and benefits be included in the budget to promote transparency, including the \$1.00 annual salary for the Councilmembers. He noted the retirement plan and benefit details are not in the CAFR as he is not familiar with the Texas Municipal Retirement System (TMRS). He referenced the liabilities and assets portion of the budget and stated the FY 08 funded ratio was 41.1% and FY 07 was 40.2% and would have appreciated a statement noting that both numbers were a decrease from the previous year.

Don Johnson, 282 Claywell Drive, expressed concern about the traffic on Claywell Drive and noted he has attended previous Council meetings to speak on the same issue. He suggested to City Council that Claywell be made a no-through traffic street that will require Police enforcement. He stated the street bumps do slow down vehicles but drivers usually increase their speed after passing the street bumps. He requested the continuation of sidewalks on Claywell, particularly in front of his residence, as the barrier on the corner forces him to get on N. New Braunfels Street, in which cars are speeding, in order to go around his yard. He thanked the Council for their service.

Jackie McGuire, 256 Claywell Drive, expressed concern on the speeding and the big vehicles that are passing through Claywell Drive. She shared her recent experience with a driver who hit her vehicle at the traffic light of Vanderhoeven Drive and Claywell Drive, and failed to stop. She stated drivers use the street as a thoroughfare. She has observed vehicles passing other vehicles that are trying to go over the street bump.

Sarah Reveley, 436 Corona Avenue, encouraged the City to better communicate with the citizens and requested the Citizens to be Heard portion of the Agenda be better reflected in the Minutes.

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Consent Items

Item # 4 Mayor Cooper read the following captions.

Consideration of a request by Alamo Heights Independent School District to hold its annual Howdy Night Parade on September 29, 2010, from 3:00 p.m. until 5:00 p.m. beginning at the 1000 block of Townsend Avenue and Broadway to the Alamo Heights High School, 6900 Broadway

Item # 5 **Request for permission to refund a duplicate or erroneous property tax payment to Southwest Foundation for Biomedical Research, property located at 423 Argyle Way, in the amount of \$1,189.93**

Item # 6 **AN ORDINANCE APPOINTING A NEW CHAIRMAN FOR THE ARCHITECTURAL REVIEW BOARD**

Item # 7 **A RESOLUTION APPROVING A GREEN POWER COMMUNITY (GPC) PARTNERSHIP WITH CPS ENERGY AND THE UNITED STATES ENVIRONMENTAL PROTECTION AGENCY (EPA), AUTHORIZING THE CITY MANAGER TO EXECUTE AND SIGN ALL DOCUMENTS RELATING TO THE GPC PARTNERSHIP**

A motion for approval for Consent Item Nos. 4 and No. 5 was made by Councilmember Fred Prassel. The motion was seconded by Mayor Pro Tem Stan McCormick and passed by unanimous vote.

Mayor Cooper requested that Item No. # 8 and Item # No. 9 be considered next since Attorney Frank Garza was present and Council would then return to the remaining Consent Items. Council agreed.

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Items for Individual Consideration

Item # 8 Mayor Cooper read the following caption.

RESOLUTION NO. 2010R - 016

A Resolution adopting revised rules of procedure governing City Council Meetings

Assistant City Manager/Public Works Director Shawn P. Eddy presented background information.

Mr. Eddy highlighted the changes that were being proposed by Councilman Prassel which included special meetings shall be set at such times as are necessary or appropriate and may be called by the Mayor or via a memorandum requesting a special meeting signed by any two members of the City Council and submitted to the City Manager. The second proposed change is any individual City Council member may propose an agenda topic for consideration by the City Council at the next regular City Council meeting by delivering to the City Manager a written proposed agenda topic for action or discussion at least one week prior to the date of the next regular City Council meeting at which the agenda topic is to be considered.

Mayor Cooper expressed concern that an action item to be submitted in one week does not provide ample time for the staff to provide adequate research or for the City Attorney to review and prepare legal instruments. Mayor Cooper suggested the Council may want to establish a longer time to submit items for action rather than just discussion.

Mr. Eddy introduced Frank Garza, Attorney, who was hired to assist the City with revising the rules of procedure governing Council meetings and the proposed Charter revisions.

Attorney Frank Garza stated that majority of municipalities require that a discussion item may be submitted in a week and an action item may be submitted in two weeks prior to a Council meeting.

There was a discussion among Council regarding sufficient time in preparation of an ordinance, sensitivity about fast tracking and making amendments to the proposed rules of governing.

Councilmember Prassel recommended a revision in the proposed resolution to include that a discussion item may be submitted one week prior to the Council meeting and an action item be submitted two weeks prior to the Council meeting. Council agreed.

The following citizens spoke on this matter:

Margaret Houston, 140 Patterson Avenue, asked Councilmember Prassel who wrote the original submitted ordinance. She also asked about the process of prioritization.

Councilmember Prassel responded to Ms. Houston that he created the ordinance, utilizing internet resources.

Mayor Cooper provided Ms. Houston with a brief explanation of the proposed new process.

Councilmember Weser responded that citizens have access and should ask a Councilmember to bring an item forth and the City Council may discuss or table the item.

A motion was made by Councilmember Bobby Rosenthal to adopt the resolution, as amended, to include submission deadlines for discussion or action items. The motion was seconded by Mayor Pro Tem Stan McCormick and passed by unanimous vote.

Item # 9 Mayor Cooper read the following captions.

ORDINANCES DETERMINING THAT A CHARTER AMENDMENT SHOULD BE SUBMITTED TO THE VOTERS AND ORDERING A SPECIAL ELECTION TO BE HELD ON NOVEMBER 2, 2010

- a. AN ORDINANCE DETERMINING THAT A CHARTER AMENDMENT SHOULD BE SUBMITTED TO THE VOTERS OF THE CITY ON NOVEMBER 2, 2010**
- b. AN ORDINANCE ORDERING A SPECIAL ELECTION TO BE HELD IN THE CITY OF ALAMO HEIGHTS, TEXAS FOR THE PURPOSE OF VOTING ON A CHARTER AMENDMENT PROPOSITION; MAKING PROVISIONS FOR THE CONDUCT OF SUCH SPECIAL ELECTION; AND RESOLVING OTHER MATTERS RELATED TO THE CONDUCT OF SUCH SPECIAL ELECTION**

Assistant City Manager/Public Works Director Shawn P. Eddy provided background information on the proposed charter amendment: Initiative and Referendum and revise the petition and procedures for Recall to be consistent with the Texas Election Code.

City Secretary Jennifer Reyna presented Early Voting and Election Day information including dates and polling sites for election activities which are conducted by Bexar County. She provided publication information in order to comply with the Local Government Code requirement for a charter amendment.

The following citizens spoke on this matter:

Bill Kiel, 124 Corona Avenue, expressed support to the charter amendment; however, he expressed concern on the inadequate caption language for the charter amendment in that it was not specific in mentioning Initiative, Referendum and Recall. He related that as a former Councilmember there were several months of preparation prior to proposing any charter amendments in order to make the public aware of the proposed amendments. He asked about the petition process and if the petition is submitted to the City Secretary.

Attorney Frank Garza responded to Mr. Kiel the petition process is outlined in the Texas Election Code and the proposed change to the recall petition is that it would allow more than one person to submit a petition but may do so during the same time as the submission initiates the City Secretary to validate the petition when the petition is submitted to the City Secretary.

Mayor Cooper asked Mr. Garza about the validity of the agenda caption in ordering the election in November for the charter amendment.

Mr. Garza responded to Mayor Cooper that that agenda caption on the Council agenda is legally adequate although it could have been more specific.

Suzy Bettac, 126 Rosemary Avenue, asked Councilmember Prassel why the urgency in a November election when the item has only been presented at one City Council meeting for thorough discussion. She expressed the lack of public input and asked if the amendment was mandated by law to be classified as one amendment.

Councilmember Prassel responded to Ms. Bettac that the proposed charter amendment may be done in any uniform election. He stated if this election is ordered, citizens may go to the November 2010 election and vote in opposition or support of the charter amendment.

Mr. Garza responded to Ms. Bettac that the amendment may be classified as one because the topic is categorized under the same article but it also depends on the City Council if they would like to maintain the charter amendment in the same article.

Cappy Lawton, 402 Harrison Avenue, thanked Councilmember Prassel for both proposals. He stated additional backup information should have been provided to inform the citizens. Mr. Lawton recommended that City Council wait on ordering the election.

Sarah Reveley, 436 Corona Avenue, requested the definition of "qualified voters" and if this action item is challenged, what are the consequences.

City Attorney Mike Brennan defined qualified voters as registered voters.

Mr. Garza responded to Ms. Reveley that if a challenge is filed in the District court and if the caption is ruled as insufficient notice, the action of the Council would be void and noted that questions related to the Open Meetings Act are not processed rapidly. Mr. Garza advised Council that they have the option to call a special meeting and repost this item containing specific caption language. Mr. Garza explained the involvement of the Department of Justice and required advance notice in conducting an election.

Mayor Cooper commented that the election may be ordered tonight but noted the public comment that there has not been sufficient time to make the public aware of the proposed charter amendment.

Councilmember Weser expressed that he believed that the time has come for the rights of initiative and referendum to be added to the City Charter. He also stated that the item has been widely discussed and publicized since the two months since it was requested and stated he did not want this item postponed. Councilmember Weser commented that the required number for any petition will vary among the citizens and the citizens will have an opportunity to vote in November to support or reject the charter amendment. He stated that the proposed charter amendment gives more power to the citizens.

Mayor Pro Tem McCormick requested additional information on best practices in the determination of varying petitions and additional citizen input in the determination of

required signatures as the voters are not able to change the presented required number of signatures once the information is on the ballot.

Mr. Garza responded to Mayor Pro Tem McCormick that 300 signatures is the required number for a recall petition as currently reflected in the City's charter and there are no changes.

Councilmember Rosenthal added that at the Governance and Communication Committee meeting, 750 was the number discussed for the required number of signatures for an Initiative and Referendum petition and 500 signatures was decided among the City Council at the August 9th Council meeting. He commented that this item could be reposted for a future election date to avoid any potential challenges and to allow for additional public input.

Councilmember John Savage applauded Councilmember Prassel for bringing this item to everyone's attention. He stated that the caption did not provide adequate details about the proposed charter amendment and that citizens may view the item as a "cram down".

Laura Theurer, 139 Wildrose Avenue, stated there will always be a different amount of required numbers of signatures expressed by the voters. She supported the charter amendment for the November 2, 2010 election. She thanked Councilmember Prassel for all his efforts.

Hans Rohl, 215 Retama Place, expressed support of the Initiative and Referendum. He stated he has interviewed citizens and they have expressed to him that there is no urgency in ordering the election and may be considered for a future election. He expressed that the number of signatures required for an Initiative and Referendum petition should be 300.

Mr. Brennan stated that he agreed with Mr. Garza in the validity of the charter amendment language posting. He stated the caption is valid and may be considered as an item for the Council to vote on.

City Manager Ann McGlone explained the agenda caption was broad to allow the Council to discuss and modify the language of the charter amendment. Specific language would have limited the discussion and put constraints on Council.

A motion for approval for Item # 9a was made by Councilmember Weser. The motion was seconded by Councilmember Prassel and the vote failed due to 2 ayes: Councilmembers Prassel and Weser and 3 nays: Mayor Pro Tem McCormick, and Councilmembers Rosenthal and Savage.

Mr. Eddy stated the proposed ordinance will be made available on the City's website for public review and input.

Mayor Cooper thanked Mr. Garza, Mr. Eddy and staff for their hard work in preparing the information for Council consideration.

Item # 9b was not considered as the motion failed in Item # 9a.

Item # 6 was considered next.

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Consent Items (continued)

Item # 6 Mayor Cooper read the following caption.

ORDINANCE NO. 1876

**AN ORDINANCE APPOINTING A NEW
CHAIRMAN FOR THE ARCHITECTURAL
REVIEW BOARD**

Community Development Director Brian Chandler provided background information on the nomination of Paul Fagan for Council consideration for Chairman of the Architectural Review Board, adding that Mr. Fagan has been a member since 2007.

Mr. Chandler stated the current Chairman, Mike McGlone, would step down as Chairman and become a regular member of the Architectural Review Board.

Mayor Cooper expressed his appreciation for Mr. McGlone's many years of outstanding service to the community and commended his agreement to step down as chair in an effort to prevent any appearance or perception that a conflict of interest might exist as his wife serves as the City Manager.

A motion for approval was made by Councilmember Rosenthal to appoint Mr. Paul Fagan as the new Chairman for the Architectural Review Board. The motion was seconded by Mayor Pro Tem McCormick and passed by unanimous vote.

Item # 7 Mayor Cooper read the following caption.

**A Resolution approving a Green Power Community
(GPC) Partnership with CPS Energy and the United
States Environmental Protection Agency (EPA),
Authorizing the City Manager to execute and sign all
documents relating to the GPC Partnership**

Mr. Eddy provided background information that the City of Alamo Heights has been designated as a green power community because the City's residences and businesses has exceeded the participatory requirements established by the United States Environmental Protection Agency (EPA) in the Windtricity Community Program.

Mayor Cooper asked about the agreement. Mr. Eddy responded the status of the designation is not official until the agreement is signed and stated he could provide the agreement at the next Council meeting.

Councilmember Savage asked how much the additional cost is to the City for windtricity. Mr. Eddy stated a report was previously presented to the City Council and stated that an updated report could be provided to the City Council at a future meeting. Mayor Cooper provided background information on the different levels of participation.

Mayor Cooper asked if there was a current contract with them. Mr. Eddy stated it was a one-year agreement that is renewed month-to-month, allowing the City to cancel at anytime.

Councilmember Weser stated this item may expand in the future related to green buildings and the code of the City of Alamo Heights. He suggested this item be considered by the Governance and Communication Committee for expansion of services.

Suzy Bettac, 126 Rosemary Avenue, inquired on the cost.

Mayor Cooper requested that staff bring this item back to a future City Council meeting.

A motion was made by Mayor Pro Tem McCormick to postpone Item # 7. The motion was seconded by Councilmember Rosenthal and passed by unanimous vote.

Item # 10 was considered next.

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Items for Individual Consideration (continued)

Item # 10 Mayor Cooper read the following caption.

A request for a compatibility review for 135 Harrison, by Hartmutt and Barbara Lau, owners, to receive a building permit to construct a one and one-half story house and a detached one-story rear garage accessed from Ogden Lane

Community Development Director Brian Chandler provided a PowerPoint presentation that included background information, photos, existing and proposed garage plans and proposed elevations.

Mr. Chandler noted the City Council approved the demolition of a house and garage at this address on March 7, 2007 prior to the April 2010 adoption of the amendments to the Chapter 5 code. Therefore, they are not subject to the current compatibility review code and process. No variance was required for this project.

The City Secretary distributed one email correspondence in favor of the project.

Architect Peter DeWitt was present to answer questions.

Mayor Cooper complimented Mr. DeWitt as he has previously designed houses that comply with new approved ordinances.

Peter DeWitt, architect and neighbor, stated there was coordination with the neighbors. Mr. DeWitt thanked Mayor Cooper for the compliment and commented that the reasoning for a “green” and energy efficient home is because the clients desired it.

A motion for approval was made by Councilmember Prassel. The motion was seconded by Councilmember Weser and passed by unanimous vote.

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Item # 11 Mayor Cooper read the following caption.

Consideration of Architectural Review Board Case No. 367F, submitted by Michelle and Troy Foote, owners of 512 Patterson Avenue, represented by James Rahe, Architect, to demolish 75% of the roof of an existing structure for the purpose of constructing a new 2-story addition

Community Development Director Brian Chandler provided a PowerPoint presentation that included background information, photos, proposed elevations, and existing and proposed roof plan.

Mr. Chandler stated there is a 24-inch heritage oak tree, that appears to be diseased, and an 8-inch cedar tree that will be removed. Mayor Pro Tem McCormick commented that he looked at the oak tree and agreed that the tree is diseased.

Mr. Chandler added that a certified horticulturist, Mark Nauschutz, submitted a letter in which he stated the oak tree is diseased. A copy of the letter was distributed to Council.

No variances were required for this project.

Councilmember Rosenthal asked about the question of significance of compatibility that was discussed during the Neighborhood Character and Commercial Revitalization Committee.

Councilmember Weser stated there were no compatibility issues; however, the removal of two trees were of a concern. He asked if the City obtains a professional opinion from a City arborist in this type of situation as an arborist may be paid by the property owner.

Mayor Cooper observed the letter from the horticulturist does not provide a license number or contact information. He stated additional information is needed.

Mayor Pro Tem McCormick added there may be additional information required from a previous ordinance. He commented to Councilmember Weser that there are other

options in which an architect may redo a plan to save a tree. Mr. Chandler stated the City's certified arborist may be sent out when a heritage tree is recommended for removal to provide the City with a second professional opinion.

Mayor Pro Tem McCormick asked if mitigation is prompted.

Mr. Chandler responded that mitigation is being proposed as an elaborate drought tolerant landscape plan in which it will also soften the view from the street. He stated additional trees may not be accommodated due to the thick existing canopy.

James Rahe, architect, stated there is an extensive canopy on the property. He acknowledged there is sensitivity to the trees and he distributed photos of the diseased oak tree.

Mayor Pro Tem McCormick commended Mr. Rahe for preserving the appearance of the house.

A motion for approval was made by Mayor Pro Tem McCormick. The motion was seconded by Councilmember Savage and passed by unanimous vote.

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Item # 12 Mayor Cooper read the following caption.

ORDINANCE NO. 1877

CONTINUED PUBLIC HEARING CONCERNING PROPOSED ZONING CODE AMENDMENTS TO CHAPTER 3 OF THE CODE OF ORDINANCES TO RESTRICT DRIVE-THROUGH FACILITIES IN BUSINESS ZONING DISTRICTS AND CONSIDERATION OF AN ORDINANCE ADOPTING SUCH AMENDMENTS

Community Development Director Brian Chandler provided a PowerPoint presentation that included background information, maps, and pros and cons of the proposed amendments.

Mr. Chandler presented the official zoning map, displaying the B-1, B-2 and B-3 Zoning Districts. He stated the boundary for B-3 zoning district currently extends from Routt, to N. New Braunfels along Austin Highway.

Councilmember Weser asked whether a Sonic Drive-Thru would be allowed under the proposed ordinance. Mr. Chandler stated it would depend on the interpretation "exiting" the business.

Mr. Brennan explained that the revised definition is to segregate curbside transactions that do not involve negative drive-through issues and stated that Sonic may fit the definition for a permitted curbside transaction.

There was a discussion among Council relating to the revised definition.

Mr. Chandler noted an applicant has submitted an application for a project that includes a drive-through, which will not be permitted if approved. Mayor Cooper added this case would not be vested by the amendments. Mr. Chandler clarified that the applicant would not be eligible for vesting laws if the amendments would be adopted, according to Chapter 245 of the Texas Local Government Code.

The following citizens spoke on this matter:

Suzy Bettac, 126 Rosemary Avenue, member of the Architectural Review Board (ARB), inquired whether this amendment would prohibit future plans in the Fire department allowing a drive-through. As a board member, she encouraged Council to follow the board's recommendation that drive-through facilities should be permitted in B-1, B-2, and B-3 business districts with an approved SUP. She asked if drive-through facilities are grandfathered if the property is sold in B-1 and B-2 districts. She expressed concern whether business owners were contacted in the area located at Kampmann and Routt.

Mr. Brennan responded the amendment would not apply to the City because the Fire department is not a commercial business. He also reminded Council that existing drive-through facilities are grandfathered as long as the property continues to be used as it was used before.

George Geis, commercial property owner, said the City of Alamo Heights is a community that has been trying to be a walkable community for over 20 years. He stated Alamo Heights is becoming common and not special. In his opinion, the ordinance does not need to isolate business districts for drive-through facilities. He commented the residential area is great but the commercial area needs improvement.

Glenn Huddleston, commercial property owner, stated he is a current board member for the Midtown Tax Increment Reinvestment Zone (TIRZ) and at a previous workshop there was a consensus with five neighborhoods prohibiting drive-through facilities to make the community a walkable community. He encouraged City Council to take the first step in eliminating drive-throughs.

Peter DeWitt, 135 Harrison Avenue, asked about the factors of grandfathering an existing drive-through facility and expressed concern that a business may try to get around the definition of a drive-through by bringing food outside to the customer. He stated architects go strictly by the definitions and encouraged a detailed definition to allow the enforcement of a Special Use Permit (SUP).

Mr. Brennan responded to Mr. DeWitt that the Council may permit SUPs depending on the scenario. Mr. Brennan stated that the ordinance may have amendments in the future to address all concerns.

Bill Kiel, 124 Corona Avenue, asked about the Board of Adjustment's role. Mr. Brennan stated the Board of Adjustment has the authority by Code to discontinue a nonconforming use and noted this information always has been in the Code and does not recall it being exercised.

Mr. Chandler reported that he received one call from Jefferson Bank and he explained the proposed amendments.

Bill Schock, architect that represented Chase Bank, stated he attended the meeting to provide information to his client. He stated his client's original site plan had a landscaped buffer and the drive-through to the rear and accommodates a walkable atmosphere.

Councilmember Savage proposed that the B-3 district include the same restrictions as B-1 and B-2 and eliminate the option of filing a SUP. Mr. Brennan stated the recommendation would be more restrictive, and could not be included at this time without proper notification.

A motion for approval as presented was made by Councilmember Savage. The motion was seconded by Councilmember Rosenthal and passed by unanimous vote.

Mayor Cooper recommended staff to further study the other issues discussed in the Neighborhood Character and Commercial Revitalization Committee.

Item # 13 Mayor Cooper read the following caption.

ORDINANCE NO. 1878

AN ORDINANCE AMENDING CITY COUNCIL ORDINANCE NO. 1652, PASSED AND APPROVED ON JUNE 26, 2006 TO ESTABLISH NEW SERVICE RATES FOR EMERGENCY MEDICAL RATES

Interim Fire Chief Buddy Kuhn provided a Powerpoint presentation that included background information about Medicare billing, the different types of EMS responses and the proposed EMS service rate revisions.

A chart was included in the PowerPoint presentation and Interim Fire Chief noted that there has not been any increase in EMS services since 2006.

Councilmember Savage asked if the EMS fees correspond with Medicare allowable rates. Interim Fire Chief Kuhn responded the proposed EMS fees correspond with Medicare and at times there are different responses and a need to submit appeals.

Ms. McGlone thanked Interim Fire Chief Kuhn and noted that when collections were outsourced, the collection rate return was in the low 30's. Currently, collections are conducted in-house and the collection return has increased to 52% which is above the national average.

Bill Kiel, 124 Corona Avenue, inquired about the difference between the former and proposed EMS service rate revisions.

Interim Fire Chief Kuhn pointed out that the former base rates did not include billable commodities and that the proposed rates included the average amount of billable commodities.

A motion for approval was made by Mayor Pro Tem McCormick. The motion was seconded by Councilmember Prassel and passed by unanimous vote.

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Staff Reports

Item # 14 Mayor Cooper read the following caption.

Presentation of proposed location of the Community Garden

Community Development Director Brian Chandler provided a PowerPoint presentation that included information on the Community Garden Citizens Group and photos.

Mr. Chandler reported the master plan has been created and planting is scheduled in the fall. Led by Eagle Scout candidates, planters, benches and the irrigation system will be developed in Phase 1.

The committee visited the River Road Community Garden, south of Brackenridge Park. The next committee meeting is on September 2nd at 5:30 p.m.

Mr. Chandler stated Gregg and Ruth Chislett are in attendance and have been dedicated in pursuing this project.

Mayor Pro Tem McCormick asked about enforcement. Mr. Chandler stated the garden is communal.

Councilmember Weser expressed support of the community garden and noted it may be a challenging project. He expressed concern on the water for care of the garden, vandalism, and benches. He suggested obtaining advice from River Road on the regulation of a community garden.

Councilmember Prassel suggested to Mr. Chandler the consideration of an organization to sponsor the community garden to decrease city costs.

Gregg Chislett, 428 Normandy Avenue, commended Mr. Chandler for his coordination of this community project. He stated there has been discussion on fiscal responsibility and perhaps imposing a fee to members.

Mayor Cooper asked if the trails project is competing with this project. Mr. Chandler responded the community garden would complement and not compete with the trails project.

Item # 15 Mayor Cooper read the following caption.

Presentation of Financial and Investment Report for the third quarter ending June 30, 2010

Finance Director Cynthia Barr provided a PowerPoint Presentation that summarized the City's financial position as of June 30, 2010. The Financial Report compared Budget to Actual for the General Fund Revenues/Expenditures, Utility Fund Revenues/Expenditures, and an Investment Portfolio Update.

She noted General Fund Revenues are at 87% of budget for the third quarter of the year. Actual expenditures are at 75% or less of budget at the end of the City's third quarter.

Ms. Barr presented the investment portfolio. She noted investment funds will be down during the summer because of the lack of tax revenue, collected primarily from December to February. Interest is at 8% of the budget and interest rates remain low. Currently the City's portfolio includes Government Agencies, Investment Pools and currently has no certificates of deposit.

Ms. Barr reported that the city's financial position remains strong and welcomed questions.

Bill Kiel, 124 Corona Avenue, asked about the percentage on the utility fund expenditures related to the capital purchase that has happened.

Ms. Barr responded to Mr. Kiel that bond securities were noted as a revenue source.

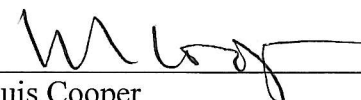
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There being no further business, a motion was made by Councilmember Prassel to adjourn the meeting. The motion was seconded by Mayor Pro Tem McCormick and passed by unanimous vote. Mayor Cooper adjourned the meeting at 9:37 p.m.


Jennifer Reyna, TRMC
City Secretary


Louis Cooper
Mayor